IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 1ST OCTOBER 2007 / 9TH ASWINA 1929

Bail Appl..No. 5918 of 2007(S)

CC.242/2005 of JFCM COURT, KANNUR II

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: PETITIONER/ACCUSED

SHAFI KONAYI, S/O. AHAMED KUTTY,
KONAYIL HOUSE, AGED 30 YEARS,
P.O.IRINAVU, KANNUR.

BY ADV. SRI.A.MOHAMED MUSTAQUE

RESPONDENTS: STATE

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1. THE STATION HOUSE OFFICER,
VALIYAPATTOM, KANNUR.

2. THE STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 01/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.5918 of 2007

Dated this the 1st day of October 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations for offences punishable inter alia under Section 304A I.P.C. All offences alleged are bailable, it is submitted. Investigation is complete. Final report has already been filed. Cognizance has been taken. Consequent to non-appearance of the petitioner, the case has been transferred to the list of long pending cases. Coercive processes have been issued by the learned Magistrate against the petitioner. The petitioner apprehends imminent arrest in execution of the warrant of arrest issued by the learned Magistrate.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful or deliberate. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the

learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

jsr // True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007